## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	☑ Discourt.	U.S.
Owen Godshall		Squad #16	201605768	Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	:	Precinct:	18 Mo. SOL	EO SOL
Monday, 07/04/2016 9:30 PM		§ 87(2)(b) stationhouse	75th Precinct	75	1/4/2018	1/4/2018
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Time	e Received at CC	RB
Mon, 07/04/2016 11:43 PM		CCRB	Call Processing System	Mon, 07/0	04/2016 11:43 PM	Л
Complainant/Victim	Туре	Home Add	lress			
Witness(es)		Home Add	lress			
Subject Officer(s)	Shield	TaxID	Command			
1. Officers			075 PCT			
2. POM Michael Ardolino	03101	951507	075 PCT			
3. POM Juan Morales	07010	952033	075 PCT			
Officer(s)	Allegatio	on		Inve	estigator Recor	nmendation
A.POM Michael Ardolino	Abuse: P searched		Ardolino entered and Brooklyn.			
B.POM Juan Morales	Abuse: P § 87(2)(b)	olice Officer Juan Mo in Brookly	orales entered and sear n.	rched		
C.POM Juan Morales	Force: A Juan Mon	rales pointed his gun a	n Brooklyn, Police Of at § 87(2)(b)	ficer		
D.POM Juan Morales	Discourte Officer J	esy: At <sup>§ 87(2)(b)</sup> uan Morales spoke dis	in Brooklyn, Pol scourteously to [8 87(2)]	lice		
E.POM Michael Ardolino	Officer N	esy: At <sup>§ 87(2)(b)</sup> Iichael Ardolino spok and individuals.	in Brooklyn, Pol se discourteously to	lice 7(2)		

Officer(s)	Allegation	Investigator Recommendation
F.POM Michael Ardolino	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Ardolino struck § 87(2)(b) with a radio.	
G.POM Michael Ardolino	Force: At \$87(2)(b) in Brooklyn, Police Officer Michael Ardolino used physical force against \$87(2)	
H. Officers	Force: At \$87(2)(b) in Brooklyn, officers used physical force against \$87(2)(b) and \$87(2)(b)	
I. Officers	Force: At \$87(2)(b) in Brooklyn, officers used physical force against \$87(2)(b) and \$87(2)(b)	
J. Officers	Force: At \$87(2)(b) in Brooklyn, officers used physical force against \$87(2)(b) and \$87(2)(b)	
K.POM Michael Ardolino	Force: At the 75th Precinct stationhouse, Police Offcer Michael Ardolino used physical force against [8,87(2)]	

## **Case Summary**

On July 4, 2016, Sgt. Henry Daverin of the 75 <sup>th</sup> Precinct filed this complaint with IAB via telephone on behalf of two injured prisoners, \$\frac{87(2)(0)}{2}\$ and \$\frac{87(2)(0)}{2}\$. This complaint was forwarded to the CCRB via IAB log #2016-24116 on July 14, 2016. On July 4, 2016, \$\frac{87(2)(0)}{2}\$ filed a duplicate complaint with the CCRB via telephone on behalf of herself and her mother \$\frac{87(2)(0)}{2}\$ and her nephew \$\frac{87(2)(0)}{2}\$ On July 5, 2016, \$\frac{87(2)(0)}{2}\$ also filed a duplicate complaint with the CCRB via telephone on behalf of herself. On July 7, 2016, \$\frac{87(2)(0)}{2}\$ also filed a duplicate complaint with the CCRB. He did not identify any additional victims. On July 8, 2016, \$\frac{87(2)(0)}{2}\$ filed a duplicate complaint with the CCRB via telephone. He identified \$\frac{87(2)(0)}{2}\$ and \$\fra
On July 4, 2016, \$37(2)(b) hosted a large holiday gathering for her extended family at her home at \$37(2)(b) were standing outside of the house. At approximately 9:30 p.m., PO Michael Ardolino and PO Juan Morales of the 75 <sup>th</sup> Precinct drove by the house in an unmarked vehicle. The officers exited their vehicle and approached the group on foot. \$37(2)(b) turned away from the officers and entered the interior of \$37(2)(b) . PO Ardolino and PO Morales chased \$37(2)(b) into the residence (Allegations A and B). Once inside, PO Morale pointed his gun at \$37(2)(b) and told him, "Put your fucking hands up" (Allegations C and D). PO Ardolino then asked him, "What the fuck did you go in the house for?" When several other relatives approached the officers, PO Ardolino told them, "Back the fuck up" (Allegation E). PO Ardolino then struck \$37(2)(b) in the face with a radio (Allegation F). He pushed \$37(2)(b) to the floor and punched him several times on the back (Allegation G). \$37(2)(b) was subsequently arrested and removed from the building.
As \$87(2)(b) was being removed from the building, several additional officers arrived to bac up PO Ardolino and PO Morales. Several of these officers used unspecified force against other civilians, including \$87(2)(b) and \$87(2)(b) (Allegation H, I
and <b>J</b> ). After $87(2)(6)$ was transported to the $75^{th}$ Precinct stationhouse, PO Ardolino pushe and repeatedly poked $87(2)(6)$ on the forehead while questioning him ( <b>Allegation K</b> ).
Two short cell phone videos taken inside of \$87(2)(b) were obtained from IAB. One was recorded by the mother of \$87(2)(b) s child, \$87(2)(b) The other was taken by an unidentified individual (See Board Review #1-2: Video Evidence).
201605768 - IAB Video 1.MOV
201605768 - IAB Video 2.3gpp
This case is 163 days old as of December 15, 2016. \$87(2)(9)

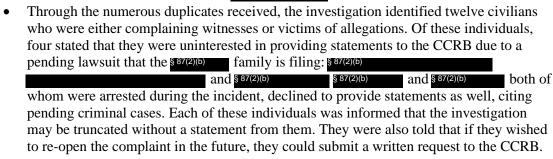
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	M P d C P 1C P 1TP 4 P
	Mediation, Civil and Criminal Histories
•	This case is ineligible for mediation due to several arrests.
•	[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
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	Civilian and Officer CCDD Histories
	Civilian and Officer CCRB Histories
•	This is the first CCRB complaint filed by or involving \$87(2)(b)
	or §87(2)(b) (See
	Board Review #4: Civilian CCRB Histories).
•	PO Ardolino has been a member of the service for four years and there are two
	substantiated CCRB allegations against him.
	o In case #201502623, a refusal to provide name and/or shield number allegation
	was substantiated against him. He was given Command Discipline A.
	o In case #201506191, a discourtesy (word) allegation was substantiated against

him. He received instructions.

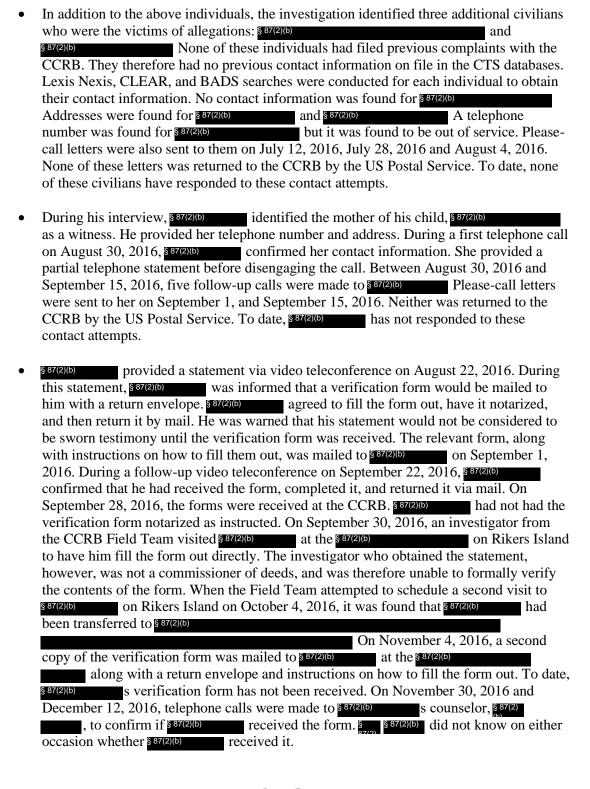
- O PO Ardolino has been the subject of thirty-four allegations in six cases. Of three previous entry allegations against him, two were closed as unsubstantiated, and one was closed as exonerated. Of two previous discourtesy allegations, one was closed as substantiated, and another was closed as unsubstantiated. Of seven force allegations, two were closed as unfounded. The remaining five are currently under investigation.
- PO Morales has been a member of the service for four years and there are no substantiated allegations against him. He has been the subject of seven allegations in five cases. These are the first entry and gun point allegations against him. One previous discourtesy allegation against him was closed as complaint withdrawn.

#### **Potential Issues**



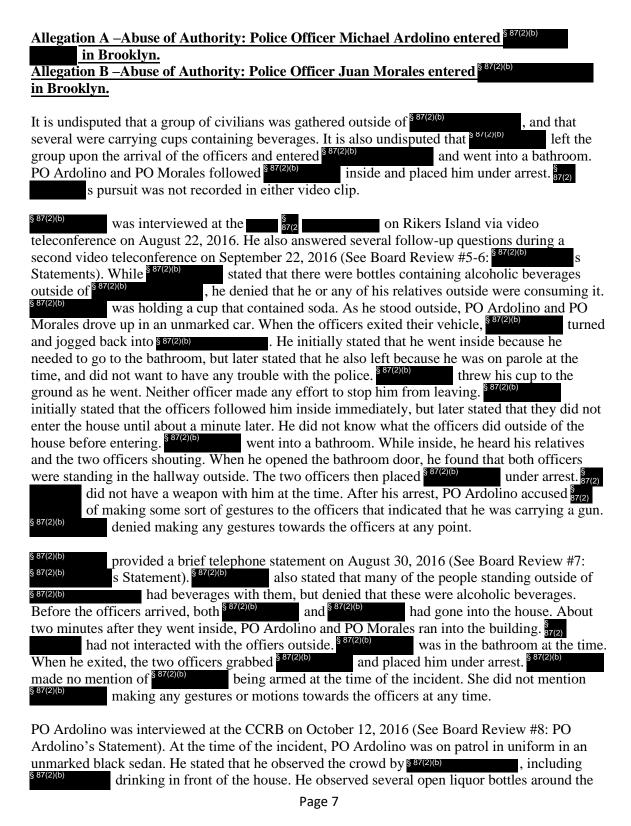
- A December 13, 2016 search of the NYC Department of Correction's online inmate database showed that none of the remaining civilians, including any members of the family, are currently incarcerated.
- was identified as one of the victims. His address and telephone number was obtained from his arrest report. During a first telephone call on July 12, 2016, he confirmed his contact information, but stated that he did not have time to schedule an interview or provide a statement. Between July 12, 2016 and August 1, 2016, six follow-up telephone calls were made to statement. Messages were left on each call. Please-call letters were mailed to him on July 12, 2016, July 21, 2016 and July 28, 2016. None were returned to the CCRB by the US Postal Service. To date, statements are responded to these contact attempts.
- identified herself as a victim and her \$37(2)(b) -year-old son \$37(2)(b) as a witness. She provided her address and telephone number during her initial complaint. During an initial telephone call on July 8, 2016 \$37(2)(b) scheduled an interview for herself and \$37(2)(b) on July 14, 2016, but both failed to appear. Neither called ahead to cancel or reschedule. Between July 14, 2016 and August 1, 2016, six additional telephone calls were made to \$37(2)(b) Messages were left on each call. Missed-appointment letters were mailed to her on July 21, 2016 and July 28, 2016. Neither was returned to the CCRB by the US Postal Service. To date, \$37(2)(b) has not responded to these contact attempts.

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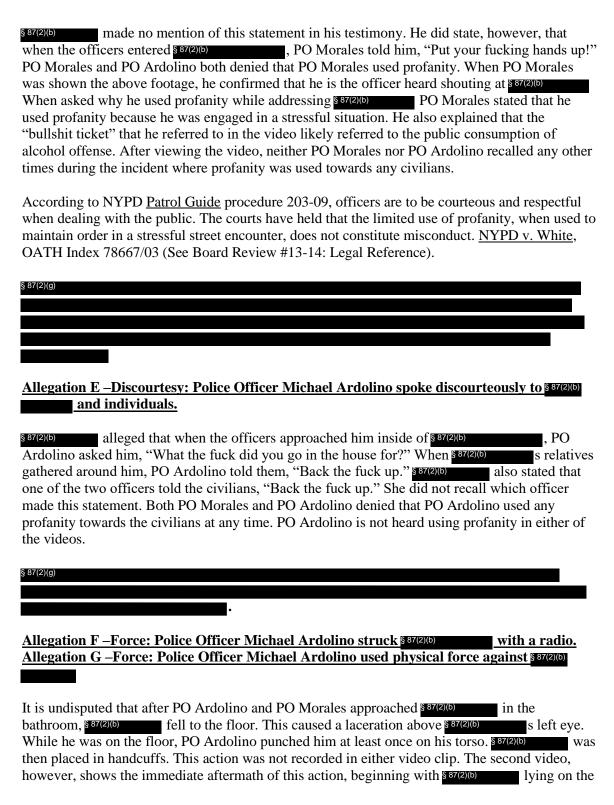
was initially arrested for consuming alcohol from an open container under the name '\$\frac{87(2)(b)}{2} ." Afterwards, he was arrested again for false personation under the name \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview, \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2} . (See Board Review: Arrest Reports). During a follow-up interview. \$\frac{87(2)(b)}{2}
Findings and Recommendations
Abuse of Authority: Stop - PO Ardolino stated that he initially approached society in order to issue him a summons for consuming alcohol from an open container in public.  887(2)(9)  • Force: Physical Force - society alleged that PO Morales punched society himself, however, stated that only PO Ardolino struck him, and that PO Morales instead told PO Ardolino to ease off of him.  887(2)(9)
Identification of Subject Officers
Several of the complainants alleged that officers used force against several other individuals at beyond \$87(2)(b) including \$87(2)(b) witnessed any of these allegations, and were consequently unable to identify or describe them. None of the other civilians, including complainants, victims and witnesses, provided statements to the CCRB. Of the civilians who filed complaints with the CCRB, only \$87(2)(b) provided identifying information for an officer. She described one of the officers present during the incident as a 5'6" tall white male in his forties with the shield number "613." This shield number corresponds to Sgt. Timothy Cecchini of the 75th Precinct. She did not, however, attribute any specific actions to Sgt. Cecchini While PO Ardolino and PO Morales were aware of officers struggling with multiple individuals at \$87(2)(b) they did not witness these struggles, and did not know which officers were involved in them. They both denied using force against any civilians beyond \$87(2)(b) \$87(2)(b)
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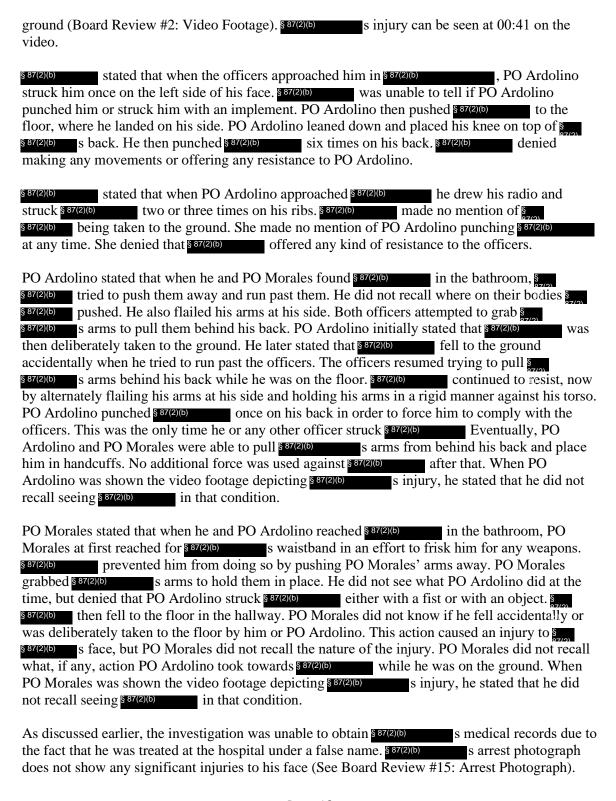


civilians, including at least one bottle of cognac. §87(2)(b) was drinking from a cup that he
was holding in his hand. PO Ardolino exited his vehicle, intending to issue summonses to the
group. He did not discuss this course of action with PO Morales beforehand. PO Ardolino also
noted that \$87(2)(b) was standing in front of an unidentified house located directly next to
This house's windows were boarded up, leading PO Ardolino to conclude that it
was abandoned. When asked why he approached \$87(2)(b) first among all of the individuals
who were drinking outside, PO Ardolino stated that there was "no rhyme or reason" for this
decision. PO Ardolino told \$87(2)(b) to stop as he approached. When he moved towards
however, \$87(2)(b) reached towards his waistband and grasped an unidentified
object that was tucked underneath his shirt. PO Ardolino did not see the object, and could not
describe its appearance. The object did not create any bulge or outline on \$87(2)(b) s clothing.
PO Ardolino did not know if the object was attached to §87(2)(b) s waistband, and did not
recall which side of \$87(2)(b) s waistband the object was situated on. \$87(2)(b) did not
remove the item, and was instead holding it at his side. Based upon the object's position on
§ 87(2)(b) s body, PO Ardolino suspected that it was a firearm. After § 87(2)(b) gripped the
object, he ran into \$87(2)(b)  PO Ardolino ran after him immediately, following at a
distance of about ten feet. PO Ardolino explained that he chased \$\frac{87(2)(b)}{2}\$ into the building so
that he could arrest him for the open container violation. He also noted that he suspected that
might have had a gun, due to the object by his waistband, and that he might have been
trespassing, due to his presence by the abandoned building. PO Ardolino was not aware of any
officers, including himself, searching for or recovering a firearm during the incident. After
s arrest, however, \$87(2)(b) told PO Ardolino that he had fled because he had had a
gun at the time.
PO Morales was interviewed at the CCRB on October 24, 2016 (See Board Review #9: PO
Morales' Statement). He confirmed that he and PO Ardolino were on patrol in uniform while
riding in an unmarked sedan. As the officers were driving on \$87(2)(b), PO Morales also
observed the group outside of \$87(2)(b) consuming beverages next to at least one bottle
of liquor. He also stated that several of the people outside were standing on the front porch of the
abandoned building next door. PO Morales felt that the civilians were guilty of publicly
consuming alcohol, and may also have been guilty of trespassing due to their presence on the
porch. When the officers stopped in front of \$87(2)(b) , PO Ardolino immediately exited the vehicle and ran towards \$87(2)(b) also turned and ran into \$87(2)(b)
PO Morales did not know why PO Ardolino had run after \$87(2)(b) specifically. He
also did not recall if §87(2)(b) started to run before PO Ardolino, or vice-versa. PO Morales
was not aware of \$87(2)(b) engaging in any additional criminal activities apart from the rest
of the group. He did not suspect that \$87(2)(b) was carrying a weapon at that time. When \$27(2)(b)
entered the building, PO Ardolino followed. PO Morales in turn followed PO Ardolino
inside in order to back him up and support him. PO Morales did not recall the exact distance
between §87(2)(b) and PO Ardolino during the pursuit, but stated that it was short. He did not
ultimately learn why PO Ardolino chased 887(2)(b) into the building.
The most recent image of §87(2)(b) and the surrounding buildings available on Google
Street View is from October 2014 (See Board Review #10: Photograph of \$87(2)(b)
§ 87(2)(g)

The police are prohibited from entering a private resident to make an arrest without a warrant. Exceptions to this requirement may be made when exigent circumstances exist. One example of an exigent circumstance is a "hot pursuit" where the police actively pursue a suspect who is in the process of fleeing from a recently committed crime. For there to be a hot pursuit, the police must have probable cause of criminal activity. This exception to the warrant requirement only applies to police pursuit into a residence for felony charges. People v. Cruz, 41 Misc. 3d 1222(A) (Crim. Ct. Bronx Cty., 2013) (See Board Review #11: Legal Reference).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
Allegation C –Force: Police Officer Juan Morales pointed his gun at 887(2)(5)

It is undisputed that PO Morales drew his gun inside of \$87(2)(b) after pursuing \$37(2)(b) inside. While this action was not recorded in either video, the videos do show the environment inside of \$87(2)(b) In it, a large crowd of shouting civilians can be seen standing within feet of PO Morales and PO Ardolino as they struggled with \$87(2)(b) (See Board Review #1-2: Video Footage).
alleged that when he exited the bathroom, PO Morales was standing in the hallway outside. He pointed the gun directly at \$87(2)(b) and told him to put his hands up. \$87(2)(b) also stated that one of the officers had a gun drawn when he entered the house, but did not recall which officer it was. Both confirmed that there were a large number of people gathered at the location at the time.
PO Morales stated that drew his gun after entering [87(2)(6)]. He did so because there were a large number of civilians surrounding him, and he was concerned that one of them might have tried to pull the gun from his waist if he was not holding it himself. PO Morales denied pointing the gun at [87(2)(6)] or any other individuals, stating that the gun remained pointed at the floor until it was re-holstered. No civilian made any effort to take PO Morales' gun at any time.
Officers are permitted to display their weapons when they feel that their lives or the lives of others are endangered. <u>PD v. Gliner</u> , OATH Index #955/00 (2000) (See Board Review #12: Legal Reference).
§ 87(2)(g)
§ 87(2)(g)
Allegation D –Discourtesy: Police Officer Juan Morales spoke discourteously to \$87(2)(5)
One of the two cell phone videos of the incident shows PO Morales' interaction with street after he was arrested (See Board Review #1: Video Footage). In it, PO Morales can be heard at 0:04 telling say(2)(b) "You didn't have to do this. You did not have to do this. It's a bullshit ticket and you're going to come running in the house like this, for what?"





to gain control or custody of a subject (See Board Review #16: Legal Reference). Allegation H –Force: Officers used physical force against § 87(2)(b) Allegation I –Force: Officers used physical force against §87(2)(b) and § 87(2)(b) Allegation J –Force: Officers used physical force against §87(2)(b) and § 87(2)(b) During his interview, \$87(2)(b) mentioned that he was aware of officers engaging in struggles with several civilians, including § 87(2)(b) He did not observe any of these interactions himself. Several of the other complainants identified additional individuals whom officers allegedly used force against. § 87(2)(b) stated that officers used force against herself, and § 87(2)(b) § 87(2)(b) identified these same individuals as victims, and further identified \$87(2)(b) and \$87(2)(b) and \$87(2)(b) also stated that an officer used force against her. None as victims. § 87(2)(b) of these individuals provided accounts of the force used against them or any of the other victims. They did not describe or identify the officers who used this force. While PO Ardolino and PO Morales were generally aware that several civilians besides were arrested, they themselves did not witness officers use force against any of the other civilians. They denied using force themselves against any civilians besides \$87(2)(b) § 87(2)(g)

NYPD Patrol Guide procedure 221-11 states that officers may use the reasonable force necessary

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# Allegation K –Force: At the 75<sup>th</sup> Precinct stationhouse, Police Officer Michael Ardolino used physical force against \$\frac{8}{37(2)(5)}\$

stationhouse, l prisoners in th room that was carrying a gun PO Ardolino t	PO Ardolino spoke to him is room at the time, \$87(2)(5) not within the prisoners' lia, and of providing a false not punched \$87(2)(5) art bleeding from his mouth	and PO Ardolino vine of sight. PO Ardolino vame to the police. § 87(2)(b) once on the left side of h	were standing in a section accused series both accused denied both accused	her of the ations.
him. Later, ho asked to expla PO Ardolino h Ardolino also	ent statement, \$87(2)(b) wever, he stated that PO A in this action in further det nad repeatedly poked him s placed his palm on \$87(2)(b) any injuries to \$87(2)(b)	rdolino had actually "mu ail, § § 7(2)(5) stated the everal times on his foreho	nat during their conversation at the emphasize his word	hen on, ls. PO
§ 87(2)(b) clain with § 87(2)(b) Morales did no	at that time, including of witness any interaction be the did not know if PO Ard ionhouse.	"PO Ardolino pushing \$87(2)(b) aw wetween PO Ardolino and		
§ 87(2)(g)				_
		•		
Squad:				
Investigator:				
an vostiguesi.	Signature	Print	Date	
Squad Leader:				
	Title/Signature	Print	Date	
Reviewer:	Title/Signature	Print	Date	
	Title/Signature	FIIII	Date	

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